IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

Single Bench

W. P. No. 2849 /2003

P. R. No. 2849/03
Presented by Shri U.K. Pandey
dated 09/09/03

(1) Sardar Krishna Singh S/o Late Sardar Hakim Singh aged about 60 years occupation - cultivator and businessman,

(2) Sardar Gurdeep Singh S/o Late Sardar Hakim Singh aged about 43 years occupation businessman

(3) Smt. Amarjeet Kaur D/o Late Sardar Hakim Singh aged about 45 years occupation- housewife

(4) Smt. Balbir Kaur W/o Late Sardar Hakim Singh aged about 82 years occupation- housewife.

All R/o Sadar Road Ambikapur Distt- Surguja (C. G.)

---------- **PETITIONERS/ PLAINTIFFS**

VERSUS

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(1) Raghvendra Kumar Mudgal S/o Shri Kanhaiyalal Mudgal, aged about 40 years, occupation- businessman.

(2) Kanhaiyalal Mudgal S/o Omkar Prasad Mudgal, aged about 80 years, occupation retired public servant.

(3) Sardar Sadhu charanjit Singh S/o Late shri Hakim Singh, aged about 48 years, occupation none.

Resp. No. 1 to 3 r/o High School Road. Ambikapur Surguja (C. G.)

(4) State of Chhattisgarh through Collector Surguja Ambikapur Distt- Surguja (C. G.)

---------- **RESPONDETS/DEFENDANTS**

(2)

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(22)

आदेश पत्रक

मामला क्रमांक ७१ २५१ सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

12.09.2003

Shri V.K. Pandey, counsel for the petitioners.

Shri H.S. Tripathi, counsel for the respondents no.1 & 2.

This writ petition under Articles 226 & 227 of Constitution of India has been filed by the petitioners challenging the order dated 23.07.2003 passed by the 5th Civil Judge, Class-II in Civil Suit No.37A/2003 by which the learned Civil Judge has closed the right of the plaintiff to cross-examine the respondent no.1-Raghevendra Kumar Mudgal and also allowed the application filed by the respondents/defendants under Order 26 Rule 1 to record the statement of defendant no.2 Kanhaiya Lal Mudgal on commission being ill and old age person.

I have heard the learned counsel for the parties.

Learned counsel for the respondents no.1 & 2 very fairly and frankly submits that he has no objection if the plaintiffs/petitioners are allowed to cross-examine respondent no.1- Raghvendra Singh and even respondent no.2 Kanhaiyalal Mudgal, is ready to appear before the Court for cross-examination if his health permits but his only grievance is that the suit is pending since 1985 and the plaintiffs / petitioners herein are trying to delay the suit for one or other reason. A perusal of the order-sheet dated 23.07.2003 of the trial Court justifies the submission made by the learned counsel for the respondents no.1 &2. The perusal of the order sheet reveals that the counsel for the plaintiffs Shri V.K. Soni at 1.20pm sought time till 3.00 pm. When the matter called out at 4.25pm the counsel for the

[पीछे दे

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

29

आदेश पत्रक

मामला क्रमांक WP 2843 सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

plaintiffs Shri Soni was not present. Even thereafter matter was again called out at 4.45pm but counsel for the plaintiffs was not present. This makes it clear that the counsel for the plaintiffs wants to avoid the proceedings and they are not cooperating with the Court.

Having heard the learned counsel for the parties and having regard to the facts and circumstances of the case, the petition is allowed to the extent that as a last opportunity chance is given to the plaintiffs/petitioners to cross-examine the witnesses – Raghvendra Kumar Mudgal & Kanhaiyalal Mudgal. Accordingly, the parties are directed to appear before the trial Court on 29th & 30th September 2003. On 29.09.2003 Raghvendra Kumar Mudgal will be cross-examined by the counsel for the plaintiffs and on 30.09.2003 the statement of Kanhaiyalal Mudgal will be recorded and cross-examined by the counsel for the plaintiffs. The Presiding Officer of trial Court will also ensure that the proceedings are completed on both days.

It is made clear that no further time should be granted to counsel for the plaintiffs if he seeks adjournment and if learned counsel for the plaintiffs fails to cross-examine the witnesses on that date then the right of cross-examination will be over.

With this observations and directions, this writ petition stands disposed of. Consequently, M.W.P. No.2605/2003 & I.A. No.8527/2003 also stands disposed of.

Certified copy as per Rules.

Sd/-
L.C. Bhadoo
Judge

Roshan 17/09/03